



Comptroller General  
of the United States  
Washington, D.C. 20548

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## Decision

**Matter of:** Lewis & Burke Enterprises, Inc.  
**File:** B-259172  
**Date:** January 11, 1995

### DECISION

Lewis & Burke Enterprises, Inc., a small, woman-owned business, protests the decision of the Department of Veterans Affairs (VA) to refer to the Small Business Administration (SBA) for consideration under its certificate of competency (COC) procedures the VA's determination that Lewis & Burke is not a responsible bidder under invitation for bids (IFB) No. 546-03-95, for radiology report transcription services.

We dismiss the protest.


The IFB required that due to the high incidence of specialized terminology in the reports to be transcribed, contractor personnel be experienced in the transcription of medical records and radiology reports. The contracting officer determined that Lewis & Burke, which had submitted the low bid in response to the IFB, was nonresponsible because it lacked experience transcribing from doctors' dictation and radiology reports. The contracting officer accordingly rejected Lewis & Burke's bid and awarded a contract to the second low bidder, A-1 Transcribing.

Lewis & Burke protested the rejection of its bid to our Office. Upon review, the agency determined that the contracting officer had erred in failing to refer his nonresponsibility determination to the SBA for consideration under its COC procedures. The VA advised our Office that the matter was now being referred to the SBA, and that if a COC were issued, the contract awarded to A-1 would be terminated and award made to Lewis & Burke.

The protester argues that referral of the matter to the SBA is not an appropriate remedy and that the contracting officer should have determined it to be responsible and awarded it the contract.

We dismiss the protest because we have no basis to review an agency's decision to refer a question of contractor responsibility to SBA. The Small Business Act, 15 U.S.C. § 637(b)(7) (1988), gives SBA, not our Office, the conclusive authority to review a contracting officer's determination that a small business is not responsible. Since SBA has exclusive authority to finally determine the responsibility of a small business, our Office generally does not review either the contracting officer's decision to refer a responsibility question to SBA, or SBA's decision to issue or deny a certificate of competency. See 4 C.F.R. § 21.3(m)(3) (1994); MRL, Inc.--Recon., B-235673.4, Aug. 29, 1989, 89-2 CPD ¶ 188.

The protest is dismissed.

  
Christine S. Melody  
Assistant General Counsel